Court that a person of ordinary skill in the art at the time of the filing of the '992 patent application would have understood that the structure described in the patent specification was sufficient to perform the claimed functions.

31. "Requesting Means in the Transmission System, Coupled to the Storage Means, for Receiving Requests From a User for at Least a Part of the Stored Information to be Transmitted to the Receiving System at One of the Remote Locations Selected By the User" ('992 Patent, Claim 47)

Acacia	Construed pursuant to 35 U.S.C. § 112, ¶ 6 -- library access interface (121) and all equivalents.
Rounds 1 and 2 Defendants	This element is governed by § 112, ¶ 6, and is indefinite.
Round 3 Defendants	This is a means-plus-function limitation to be construed pursuant to 35 U.S.C. § 112 ¶ 6, and is indefinite.

Claim 47 of the '992 patent includes the phrase "requesting means in the transmission system, coupled to the storage means, for receiving requests from a user for at least a part of the stored information to be transmitted to the receiving system at one of the remote locations selected by the user." The parties agree that this phrase is construed pursuant to 35 U.S.C. § 112, ¶ 6.

The claimed function is "receiving requests from a user." The structure disclosed in the patent specification necessary for performing this function is the library access interface (121). (*See*, '992 patent, 13:29 – 15:32 and 17:44-53 and shown in Figure 2b, reference no. 121):

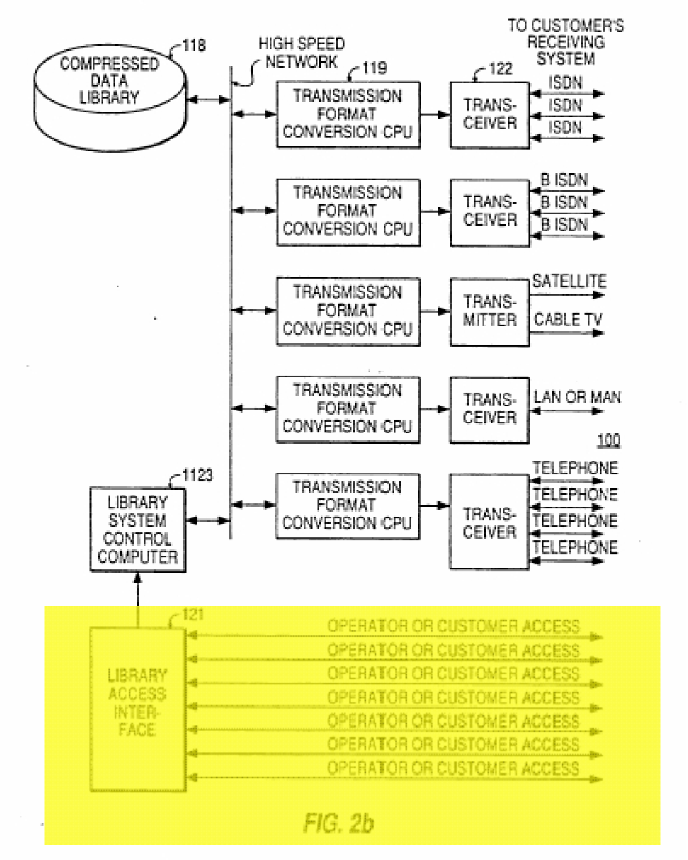
> The compressed audio and/or video data blocks, along with any of the information about the item stored in the compressed data library 118 may be accessed via library access interface 121. *The library access interface 121 receives transmission requests either directly from the users or indirectly by remote order processing and item database 300.* The transmission format means 119 receives the request and retrieves the composite formatted data block of the requested item stored in compressed data library 118 and converts the compressed formatted data block into a format suitable for transmission. The requested item is then sent to the user via the transmitter 122 or directly via interface 121.
>
> *In a preferred embodiment of the present invention, customer access of an item stored in compressed data library 118 via the library access interface 121 may be performed in various ways.* The methods of requesting a stored item are analogous to making an airline reservation or transferring funds between bank accounts. Just as there are different methods available for these processes it is desirable to have several ordering methods available to the users of the system of the present invention. For example, telephone tone decoders and voice response hardware may be employed.

HENNIGAN, BENNETT & DORMAN LLP
LAWYERS
LOS ANGELES, CALIFORNIA

Dockets.Justia.com

> Additionally, operator assisted service or user terminal interfaces may be used.

(‘992 patent, 13:34-60; emphasis added).



TO CUSTOMER'S RECEIVING SYSTEM
118
COMPRESSED DATA LIBRARY
HIGH SPEED NETWORK
119
122
TRANSMISSION FORMAT CONVERSION CPU
TRANS-CEIVER
ISDN
ISDN
ISDN
TRANSMISSION FORMAT CONVERSION CPU
TRANS-CEIVER
B ISDN
B ISDN
B ISDN
TRANSMISSION FORMAT CONVERSION CPU
TRANS-MITTER
SATELLITE
CABLE TV
TRANSMISSION FORMAT CONVERSION CPU
TRANS-CEIVER
LAN OR MAN
100
1123
LIBRARY SYSTEM CONTROL COMPUTER
TRANSMISSION FORMAT CONVERSION CPU
TRANS-CEIVER
TELEPHONE
TELEPHONE
TELEPHONE
TELEPHONE
121
LIBRARY ACCESS INTER-FACE
OPERATOR OR CUSTOMER ACCESS
OPERATOR OR CUSTOMER ACCESS
OPERATOR OR CUSTOMER ACCESS
OPERATOR OR CUSTOMER ACCESS
OPERATOR OR CUSTOMER ACCESS
OPERATOR OR CUSTOMER ACCESS
OPERATOR OR CUSTOMER ACCESS
FIG. 2b

32. “Transmission Means in the Transmission System, Coupled to the Requesting Means, for Sending at Least a Portion of the Stored Information to the Receiving System at the Selected Remote Location” (‘992 Patent, Claim 47)

Acacia	Construed pursuant to 35 U.S.C. § 112, ¶ 6 -- a transmitter, transceiver, cable television transmitter, modem, data coupler, telephone transceiver, satellite transmitter, airwave broadcast transmitter (See, e.g., reference no. 200d of Fig. 1g and reference no. 122 of Fig. 2b) and all equivalents.
Rounds 1 and 2 Defendants	This element is governed by § 112, ¶ 6, and is indefinite.
Round 3 Defendants	This is a means-plus-function limitation to be construed pursuant to 35 U.S.C. § 112 ¶ 6, and is indefinite.

Claim 47 of the ‘992 patent includes the phrase “transmission means in the transmission system, coupled to the requesting means, for sending at least a portion of the stored information to the receiving system at the selected remote location" The parties agree that this phrase is construed pursuant to 35 U.S.C. § 112, ¶ 6.

The claimed function is "sending at least a portion of the stored information to the receiving system at the selected remote location." The structure disclosed in the '992 patent specification necessary for performing this function is a transmitter, transceiver, cable television transmitter, modem, broadcast television transmitter, data coupler, or satellite transmitter (*See*, '992 patent at 4:52-63, 15:61 – 17:24, and 19:57-20:5 and shown in Figures 1g, 2b, and 8e):

> The transmission system 100 of the present invention preferably further includes transmitter means 122, coupled to the compressed data library 118, for sending at least a portion of a specific file to at least one remote location. The transmission and receiving system of the present invention preferably operates with any available communication channels. Each channel type is accessed through the use of a communications adaptor board or processor connecting the data processed in the transmission format converter 119 to the transmission channel.
>
> A preferred embodiment of the present invention also includes means by which to access users via common access lines. These may include standard telephone, ISDN or B-ISDN, microwave, DBS, cable television systems, MAN, high speed modems, or communication couplers. Metropolitan Area Networks (MANs) which are common carrier or private communication channels are designed to link sites in a region. MANs are described by Morreale and Campbell in "Metropolitan-area networks" (IEEE Spectrum, May 1990 pp. 40-42). The communication lines are used to transmit the compressed data at rates up to, typically, 10 Mb/sec.

('992 patent, 15:61-16:15).

> The transmitter 122 places the formatted data onto the communications channel. This is an electrical conversion section and the output depends upon the chosen communication path. The signal is sent to the reception system 200 in either a two way or a one way communication process. In a standard telephone connection, the transmitter 122 is preferably a modem. When using an ISDN channel, the transmitter 122 is preferably a data coupler.
>
> In a preferred embodiment of the present invention, many forms of communication channels may be employed. Distribution of information is by common carrier communication channels whenever possible. These channels include common telephone service, ISDN and Broadband ISDN, DBS, cable television systems, microwave, and MAN.

('992 patent, 16:53-68).

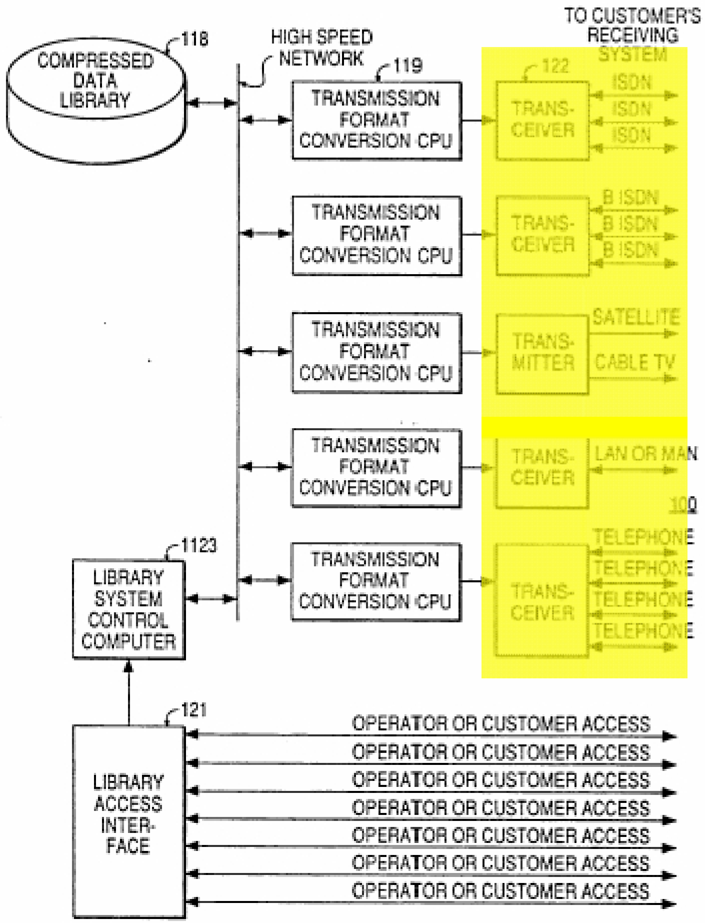

COMPRESSED DATA LIBRARY
118
HIGH SPEED NETWORK
119
TRANSMISSION FORMAT CONVERSION CPU
TO CUSTOMER'S RECEIVING SYSTEM
122
TRANS-CEIVER
ISDN
ISDN
ISDN
TRANSMISSION FORMAT CONVERSION CPU
TRANS-CEIVER
B ISDN
B ISDN
B ISDN
TRANSMISSION FORMAT CONVERSION CPU
TRANS-MITTER
SATELLITE
CABLE TV
TRANSMISSION FORMAT CONVERSION CPU
TRANS-CEIVER
LAN OR MAN
100
1123
LIBRARY SYSTEM CONTROL COMPUTER
TRANSMISSION FORMAT CONVERSION CPU
TRANS-CEIVER
TELEPHONE
TELEPHONE
TELEPHONE
TELEPHONE
121
LIBRARY ACCESS INTER-FACE
OPERATOR OR CUSTOMER ACCESS
OPERATOR OR CUSTOMER ACCESS
OPERATOR OR CUSTOMER ACCESS
OPERATOR OR CUSTOMER ACCESS
OPERATOR OR CUSTOMER ACCESS
OPERATOR OR CUSTOMER ACCESS
OPERATOR OR CUSTOMER ACCESS

FIG. 2b

33. "Receiving Means in the Receiving System for Receiving the Transmitted Information" ('992 Patent, Claim 47)

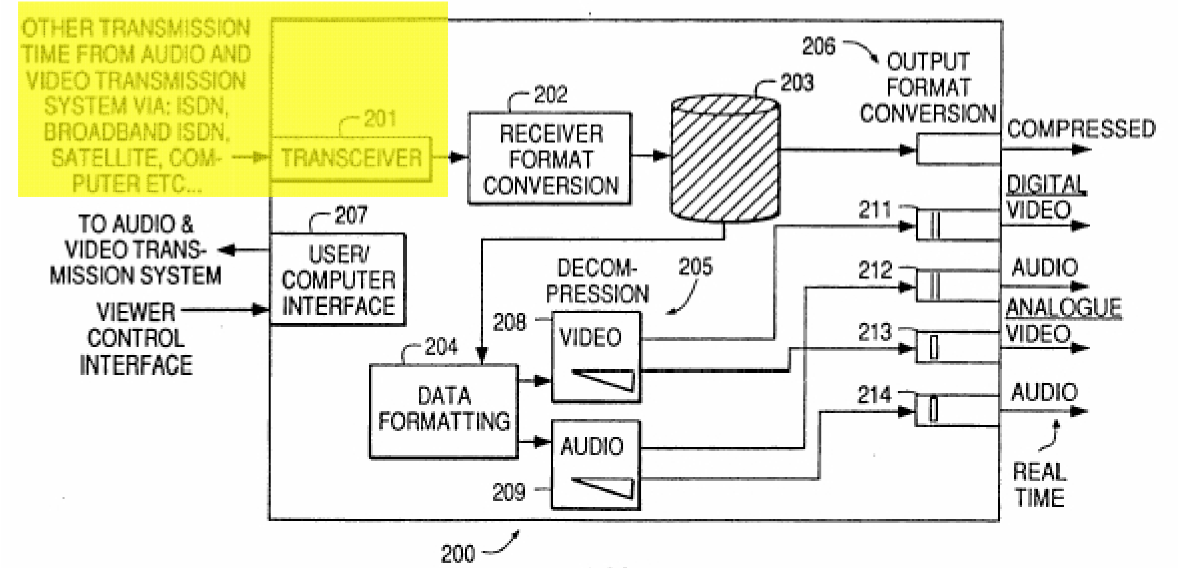
Acacia	Construed pursuant to 35 U.S.C. § 112, ¶ 6 -- a transceiver (201) and all equivalents.
Rounds 1 and 2 Defendants	This element is governed by § 112, ¶ 6, and is indefinite.
Round 3 Defendants	This is a means-plus-function limitation to be construed pursuant to 35 U.S.C. § 112 ¶ 6. The function of the receiving means is "receiving the transmitted information." The "receiving means" correspondence to the combination of transceiver 201 and "receiver format converter" 202, shown in Figure 6 and all structural equivalents. The receiving means is in the receiving system.

Claim 47 of the ‘992 patent includes the phrase “receiving means in the receiving system for receiving the transmitted information.” The parties agree that this phrase is construed pursuant to 35 U.S.C. § 112, ¶ 6.

The claimed function is “receiving the transmitted information.” The structure disclosed in the ’992 patent specification necessary for performing this function is a transceiver 201. (See, ‘992 patent at 17:1-24; 17:67 – 18:14 and shown in Figure 6, reference no. 201:

> FIG. 6 illustrates a block diagram of a preferred implementation of the reception system 200 according to the present invention. The reception system 200 is responsive to user requests for information stored in source material library 111. The reception system 200 includes transceiver 201 which receives the audio and/or video information transmitted by transmitter 122 of the transmission system 100. The transceiver 201 automatically receives the information from the transmitter 122 as compressed formatted data blocks.

(‘992 patent, 17:67-18:8; emphasis added).



OTHER TRANSMISSION TIME FROM AUDIO AND VIDEO TRANSMISSION SYSTEM VIA: ISDN, BROADBAND ISDN, SATELLITE, COM-PUTER ETC...
201
TRANSCEIVER
202
RECEIVER FORMAT CONVERSION
203
206
OUTPUT FORMAT CONVERSION
COMPRESSED
DIGITAL VIDEO
AUDIO
ANALOGUE VIDEO
AUDIO
REAL TIME
211
212
213
214
207
USER/ COMPUTER INTERFACE
TO AUDIO & VIDEO TRANS-MISSION SYSTEM
VIEWER CONTROL INTERFACE
DECOM-PRESSION
205
208
VIDEO
204
DATA FORMATTING
AUDIO
209
200

FIG. 6

Although the Rounds 1 and 2 Defendants contend that this phrase is indefinite, the Round 3 Defendants contend that this term is definite and should be construed as the combination of a transceiver and a receiver format converter. It would be improper to include the receiver format converter in the construction for the “receiving means.” The “receiver format converter does not perform the claimed function of receiving information. Instead, the “receiver format converter” performs a formatting function:

> The transceiver 201 is preferably connected to receiver format converter 202. The receiver format converter 202 converts the compressed formatted data blocks into a format suitable for playback by the user in real time.

('992 patent, 18:9-13).

34. "Memory Means in the Receiving System, Coupled to the Receiving Means, for Storing a Complete Copy of the Received Information" ('992 Patent, Claim 47)

Acacia	The term "memory" is sufficient structure to perform the claimed function and therefore overcome the presumption of 35 U.S.C. § 112, ¶ 6. If construed pursuant to 35 U.S.C. § 112, ¶ 6 -- storage (203 or 200c) and all equivalents.
Rounds 1 and 2 Defendants	This element is governed by § 112, ¶ 6, and is indefinite.
Round 3 Defendants	This is a means-plus-function limitation to be construed pursuant to 35 U.S.C. § 112 ¶ 6. The function of the memory means is "storing a complete copy the received information." The "memory means" corresponds to storage 203, shown in Figure 6, and to storage 200c, shown in Figure 1f. and all structural equivalents. The memory means is in the receiving system.

Claim 47 of the '992 patent includes the phrase "memory means in the receiving system, coupled to the receiving means, for storing a complete copy of the received information." This phrase uses the term "means for" and therefore is presumptively construed pursuant to 35 U.S.C. § 112, ¶ 6. In this case, however, the claim phrase recites structure ("memory")[11] for performing the recited function ("storing a complete copy of the received information") The presumption that 35 U.S.C. § 112, ¶ 6 controls is overcome. *TI Group Automotive System*, 375 F.3d at 1135.

The Court may find, however, that the term "memory" is not sufficient structure to overcome the presumption that 35 U.S.C. § 112, ¶ 6 applies. If this were the case, then the structure disclosed

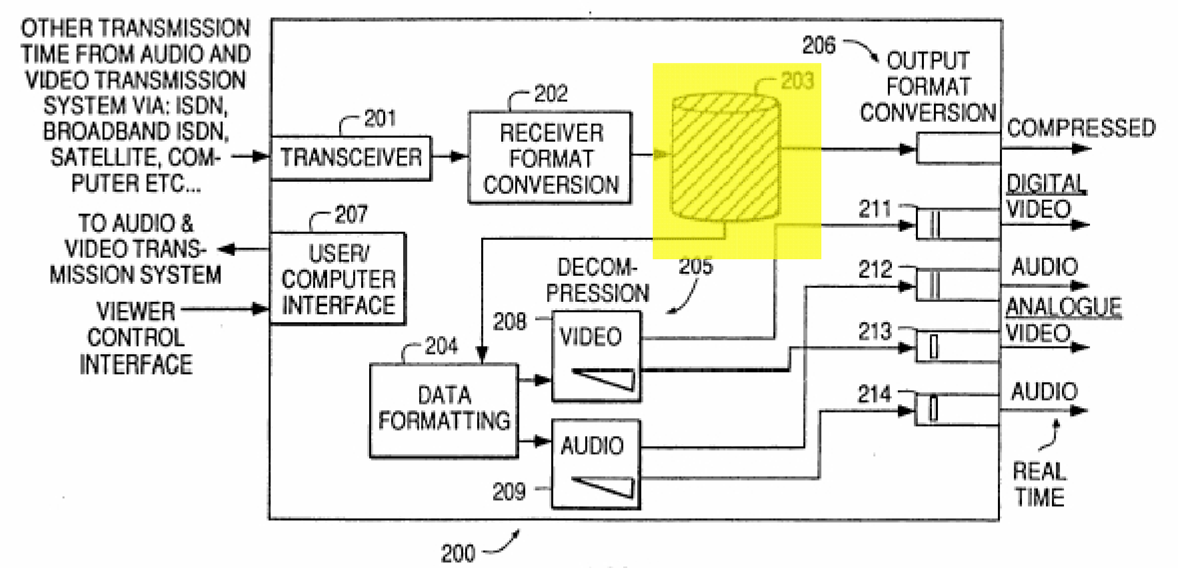
[11] The term "memory" is defined in *Webster's Third New International Dictionary* (1993) as "a component in an electronic computing machine (as a computer) in which information (as data or program instructions) may be inserted and stored and from it may be extracted when wanted." (See Block Declaration, Exhibit 5.)

in the specification for "storing a complete copy of the received information" is storage (203) and all equivalents, as described in the specification at 4:64 – 5:33, 18:14-21, and 19:30-34 and shown in Figure 1f, reference no. 200c, Figure 6, reference no. 203:

> In the reception system 200 of the present invention, the user may want to play back the requested item from the source material library 111 at a time later than when initially requested. If that is the case, the compressed formatted data blocks from receiver format converter 202 are stored in storage 203. Storage 203 allows for temporary storage of the requested item until playback is requested.

('992 patent, 18:14-21).

Although the Rounds 1 and 2 Defendants contend that this phrase is indefinite, the Round 3 Defendants agree with Acacia and contend that this term is definite and should be construed as the storage 203 or 200c.



OTHER TRANSMISSION TIME FROM AUDIO AND VIDEO TRANSMISSION SYSTEM VIA: ISDN, BROADBAND ISDN, SATELLITE, COM-PUTER ETC...
TO AUDIO & VIDEO TRANS-MISSION SYSTEM
VIEWER CONTROL INTERFACE
201
TRANSCEIVER
202
RECEIVER FORMAT CONVERSION
203
206
OUTPUT FORMAT CONVERSION
COMPRESSED
207
USER/ COMPUTER INTERFACE
DIGITAL VIDEO
211
AUDIO
212
DECOM-PRESSION
205
ANALOGUE VIDEO
213
208
VIDEO
204
DATA FORMATTING
214
AUDIO
AUDIO
209
REAL TIME
200

FIG. 6

35. "Playback Means in the Receiving System, Coupled to the Memory Means, for Playing Back the Stored Copy of the Received Information at a Time Requested by the User" ('992 Patent, Claim 47)

Acacia	Construed pursuant to 35 U.S.C. § 112, ¶ 6 -- a data formatter 204, an audio decompressor 209 and/or a video decompressor 208, and converter 206, which includes one or more of the following: digital video output converter 211, analog video output converter 213, digital audio output converter 212, and analog audio output converter 214, and all equivalents.
Rounds 1 and 2 Defendants	This element is governed by § 112, ¶ 6, and is indefinite.

Round 3 Defendants	This is a means-plus-function limitation to be construed pursuant to 35 U.S.C. § 112 ¶ 6, and is indefinite.

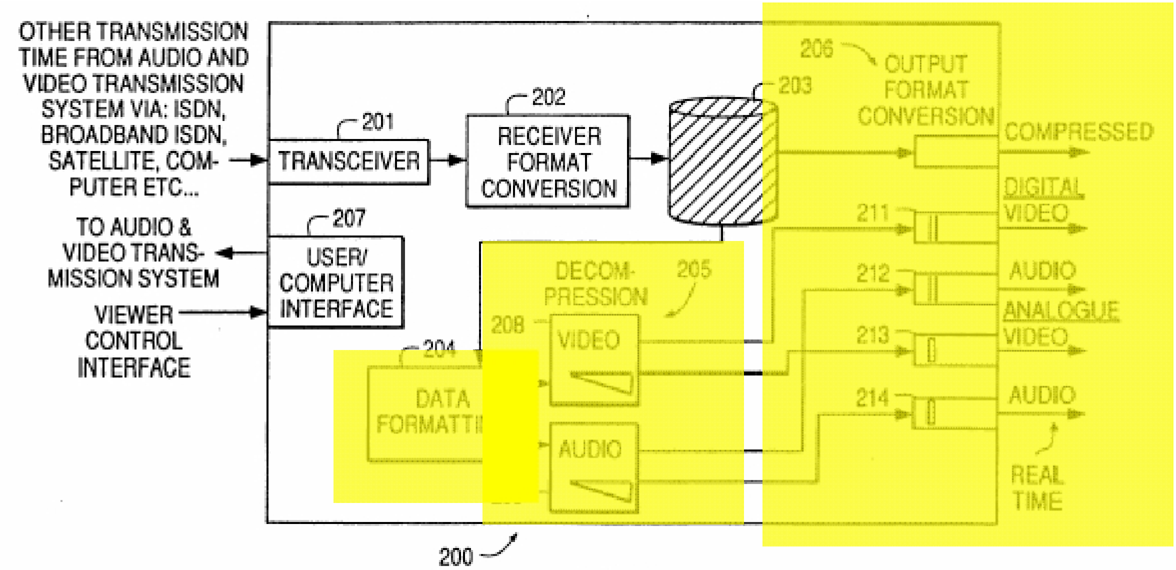
Claim 47 of the '992 patent includes the phrase "playback means in the receiving system, coupled to the memory means, for playing back the stored copy of the received information at a time requested by the user." The parties agree that this phrase is construed pursuant to 35 U.S.C. § 112, ¶ 6.

The claimed function is "playing back the stored copy of the received information at a time requested by the user." As discussed above, in Section No. 4, above, the term "playing back" means "the process of providing signals comprising video and/or audio information, wherein the signals can be displayed and/or heard on a device, such as an audio amplifier and/or television, or recorded."

The structures disclosed in the '992 patent specification for performing this function are a data formatter 204, an audio decompressor 209 and/or a video decompressor 208, and converter 206, which includes one or more of the following: digital video output converter 211, analog video output converter 213, digital audio output converter 212, and analog audio output converter 214, and all equivalents, as described in '992 patent at 18:22-45:

> *When playback is requested, the compressed formatted data blocks are sent to data formatter 204*. Data formatter 204 processes the compressed formatted data blocks and distinguishes audio information from video information.
>
> *The separated audio and video information are respectively decompressed by audio decompressor 209 and video decompressor 208. The decompressed video data is then sent simultaneously to converter 206 including digital video output converter 211 and analog video output converter 213. The decompressed audio data is sent simultaneously to digital audio output converter 212 and analog audio output converter 214. The outputs from converters 211-214 are produced in real time.*
>
> *The real time output signals are output to a playback system such as a TV or audio amplifier. They may also be sent to an audio/video recorder of the user*. By using the reception system 200 of the present invention, the user may utilize the stop, pause, and multiple viewing functions of the receiving device. Moreover, in a preferred embodiment of the present invention, the output format converters may be connected to a recorder which enables the user to record the requested item for future multiple playbacks.

('992 patent, 18:22-45).


OTHER TRANSMISSION TIME FROM AUDIO AND VIDEO TRANSMISSION SYSTEM VIA: ISDN, BROADBAND ISDN, SATELLITE, COM-PUTER ETC...
TO AUDIO & VIDEO TRANS-MISSION SYSTEM
VIEWER CONTROL INTERFACE
201
TRANSCEIVER
202
RECEIVER FORMAT CONVERSION
207
USER/ COMPUTER INTERFACE
204
DATA FORMATTI
208
DECOM-PRESSION
205
VIDEO
AUDIO
206
203
OUTPUT FORMAT CONVERSION
211
212
213
214
COMPRESSED
DIGITAL VIDEO
AUDIO
ANALOGUE VIDEO
AUDIO
REAL TIME
200
FIG. 6

XIV. CLAIM 48 OF THE '992 PATENT

Claim 48 of the '992 patent depends from claim 47:

> 48. A distribution system as recited in claim 47, wherein the information in the items includes analog and digital signals, and wherein the storage means further comprises:
>
> [36] conversion means, for converting the analog signals of the information to digital components;
>
> [37] formatting means, coupled to the conversion means, for formatting the digital signals of the information;
>
> [38] ordering means, coupled to the formatting means, for ordering the converted analog signals and the formatted digital signals into a sequence of addressable data blocks and;
>
> [39] compression means, coupled to the ordering means, for compressing the ordered information.

36. "Conversion Means, for Converting the Analog Signals of the Information to Digital Components" ('992 Patent, Claim 48)

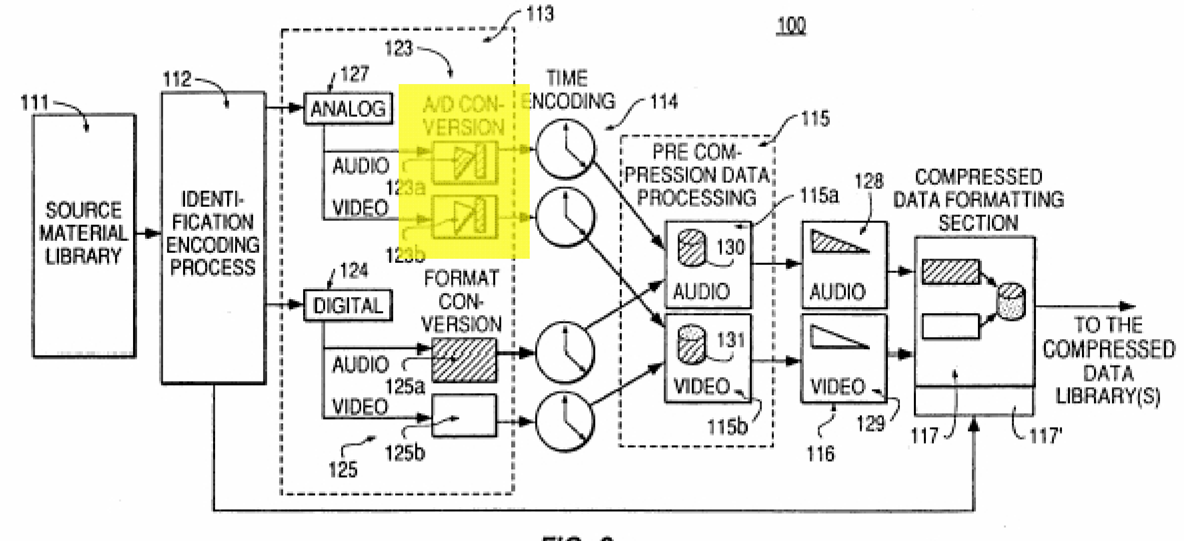
Acacia	Construed pursuant to 35 U.S.C. § 112, ¶ 6 -- the analog audio converter (123a) and/or the analog video converter (123b) and all equivalents
Rounds 1 and 2 Defendants	This element is governed by § 112, ¶ 6, and is indefinite.
Round 3 Defendants	This is a means-plus-function limitation to be construed pursuant to 35 U.S.C. § 112 ¶ 6, and is indefinite.

Claim 48 of the ‘992 patent includes the phrase “conversion means, for converting the analog signals of the information to digital components.” The parties agree that this phrase is construed pursuant to 35 U.S.C. § 112, ¶ 6.

The claimed function is “converting the analog signals of the information to digital components.” The structures disclosed in the ‘992 patent specification for performing this function are the analog audio converter (123a) and/or the analog video converter (123b) and all equivalents described in the specification at 7:12-26 and shown in Figure 2a, reference nos. 123a and 123b:

> When the retrieved information from identification encoder 112 is analog, the information is input to an analog-to-digital converter 123 to convert the analog data of the retrieved information into a series of digital data bytes. Converter 123 preferably forms the digital data bytes into the same format as the output of formatter 125.
>
> Converter preferably includes an analog audio converter 123a and an analog video converter 123b. The analog audio converter 123a preferably converts the retrieved audio signal into pcm data samples at a fixed sampling rate. The analog video converter 123b preferably converts the analog video information, retrieved from identification encoder 123, into pcm data also at fixed sampling rates.

(‘992 patent, 7:12-26).



100
113
123
127
112
111
ANALOG
A/D CON-
VERSION
TIME
ENCODING
114
115
AUDIO
VIDEO
123a
123b
PRE COM-
PRESSION DATA
PROCESSING
115a
128
COMPRESSED
DATA FORMATTING
SECTION
SOURCE
MATERIAL
LIBRARY
IDENTI-
FICATION
ENCODING
PROCESS
124
DIGITAL
FORMAT
CON-
VERSION
130
AUDIO
131
VIDEO
125a
125b
125
115b
116
129
117
117'
TO THE
COMPRESSED
DATA
LIBRARY(S)

FIG. 2a

37. “Formatting Means, Coupled to the Conversion Means, for Formatting the Digital Signals of the Information” (‘992 Patent, Claim 48)

Acacia	Construed pursuant to 35 U.S.C. § 112, ¶ 6 -- the digital audio formatter